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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/890,643 07/09/97 HOLLAND

I AT9-97-206

LM02/0401

EXAMINER

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MILLS, J

ART UNIT	PAPER NUMBER
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2771

*5*

DATE MAILED:

04/01/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>08/890,643</b>	Applicant(s), <b>Holland et al</b>
	Examiner <b>John Mills</b>	Group Art Unit <b>2771</b>

Responsive to communication(s) filed on Jan 11, 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-23 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2771

### **DETAILED ACTION**

1. Applicant's amendment adding new claims but not modifying any of the previously filed claims has been noted and entered. Applicant's arguments to reverse the standing rejection of claims 1-20 has also been considered. Claims 1-23 are presented for examination.
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In response to the applicant's remarks, the current abstract should be amended to state that a read only file stored on a hard drive is converted into a n executable code for memory mapping. Correction is required. See MPEP 608.01(b).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by the prior art U.S.

Patent 5,301,302 to Blackard et al.

Art Unit: 2771

The applicant's invention of simulating executable code and then memory mapping data into virtual memory is taught by the prior art reference as follows:

In claim 1, the prior art reference teaches the method of the claimed invention. The step of converting a read only file into an executable file is taught by the reference as the simulator copies data and instructions from Read Only Storage (ROS) into the operating system's shared memory segment.(See Col. 8 line 21 et seq.) The further step of memory mapping the converted file into memory is taught by the reference as the memory mapping whereby addresses of a one segment of memory are mapped into a second segment of memory. (See Col. 16 line 21 et seq.)

Claims 7 and 13 are rejected in the analysis above and are rejected on that basis.

In claim 2, the virtual memory is taught by the reference on Col. 16 line 42 et seq.

In claim 3, the operating system loader is shown by the reference on Col. 16 line 21 et seq.

In claim 4, the shared memory is taught by the reference as the shared memory segments taught on Col 16 line 21.

In claim 5, the read only file being a data base file is inherent in the teaching of the reference in that the data in the read only file may be formated as a database.

In claim 6, the wrapping of the read only file with executable code is inherent in the reference teaching of instruction address translation (See Col. 13 line 22 et seq.)

Claims 8-12 and 14-18 are rejected in the analysis above and are rejected on that basis.

Claims 19 and 20 recite an image file and an audio file but the type of data and type of file is inherent in the teaching of the reference and the data could be either image or audio.

Art Unit: 2771

New claims 21-23 recite the wrapping feature of wrapping read only code with code headers in order to cause the operating system to view the file as an executable file. This feature is inherent in the translation or conversion of the read only file for the simulator of the cited prior art patent.

The applicant's remarks have been considered and it is noted that the applicant argues that the prior art does not disclose the conversion of a read only file into an executable file. However, the prior art does teach the translation and execution of a read only file, and the examiner submits that this translation is inherently the same conversion that the applicant has broadly claimed in his claims.

Newly cited prior art references U.S. Patent 5802554 also show that read only files may be by design choice executable (See Col 2 line 49) and US Patent 5440710 also shows the same feature (See Col. 4 line 4)

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2771

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John G. Mills whose telephone number is (703) 308-9822. The examiner can normally be reached on Monday to Friday from 9:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black , can be reached on (703)-305-9707. The fax phone number for the organization where this application or proceeding is assigned is (703-305-9731) .

John G. Mills

*J. Mills*

*Thomas G. Black*  
THOMAS G. BLACK  
SUPERVISORY PATENT EXAMINER  
GROUP 2700